



BRIEFING: JULY 2011 EXECUTIVE/ADMINISTRATIVE COMMITTEE MEETING
AGENDA ITEM #3

TO: Chairman Umberg and Committee Members

FROM: Jeffrey M. Barker

DATE: July 5, 2011

RE: Legislative Update

Background

The purpose of this briefing is to update the Board on proposed legislation relevant to the high-speed rail project, and major changes to those bills that have occurred since the June 2011 presentation to the Board.

There were approximately 30 bills introduced this legislative session directly affecting the high-speed rail project. On March 3, 2011, the Board voted to take an official position on seven of those bills and to monitor the remaining bills. On May 4, 2011, the Board voted to take a position on an additional two bills. A summary of those positions is as follows (strike-throughs indicate bills that are no longer active):

AB 41 (Hill) re: conflicts of interest: Support
~~AB 58 (Galgiani) re: Authority staffing: Support~~
~~AB 76 (Harkey) re: reducing Prop 1A bond funds: Oppose~~
AB 615 (B. Lowenthal) re: property acquisition: Support
AB 292 (Galgiani) re: agricultural working group: Support
~~AB 1077 (Carter) re: Allensworth State Park: Oppose Unless Amended~~
~~SB 22 (LaMalfa) re: reducing Prop 1A bond funds: Oppose~~
~~SB 50 (Correa) re: conflicts of interest: Support~~
SB 517 (A. Lowenthal) re: Authority governance/re-organization: Oppose

Below, the relevant pieces of legislation are categorized as follows : First, introduction of new bill language sponsored by the Authority; secondly, bills that the Board has taken a position on; finally, updates to the remaining bills we are monitoring.

NOTE: This document reflects legislation as of Tuesday, July 5. Friday, July 8 is the legislative deadline for bills to be heard and voted out of relevant policy committees, and therefore there may be additional updates between the time of the writing of this briefing and the July 14 Authority Board meeting.

New Bill Language

AB 1422 (Perea)

Was gutted and amended and is now a bill SPONSORED by the Authority which would make the Authority's role in contracting for its own projects identical to the role of other state agencies, such as Caltrans and the Department of Boating and Waterways. Would extract the Authority from the Department of General Services for all contracting purposes. This bill is necessary to maintain the timeline of the project.

Suggested Board Position: Support

Status: This bill resides in Senate Transportation and Housing, no hearing set.

Bills With Formal Board Positions

The following shows the status of bills on which the Board has voted to take a formal position.

AB 41 (Hill)

Summary: Would add members of the High-Speed Rail Authority to those specified offices who must publicly identify a financial interest giving rise to a conflict of interest or potential conflict of interest, and recuse themselves accordingly.

Update: This bill has been amended. The bill now prohibits members of the HSRA board and any interested person (bidder, vendor, contractor) from conducting an ex parte communication, as defined, unless the board member reports the ex parte communication. The bill defines "ex parte communication" as any oral or written communication between a member of the HSRA and an interested person about a matter within the HSRA's jurisdiction that does not occur in a public hearing, workshop, or other official proceeding, or on the official record of the proceeding on the matter. Not an outright ban, AB 41 requires that any ex-parte communications must be reported to public record. According to a legislative analysis, this bill would result in HSRA Board members being treated the same as "elected state officers, judges, members of the Public Utilities Commission, members of the Fair Political Practices Commission (FPPC), members of the California Coastal Commission, members of county boards of supervisors, district attorneys, mayors, and members of city councils."

Official Board Position: Support (as introduced)

Status: Will be heard in Senate Appropriations 7/11

AB 292 (Galgiani)

Summary: This bill would require the Authority to appoint an agricultural advisory committee with an unspecified number of members. The bill would require the Authority to consult with the committee and to reflect the committee's comments on Authority policies related to agriculture and on any agriculture-related action item brought before the board of the Authority.

Official Board Position: Support

Status: This bill passed out of Senate Transportation and Housing 6/28, and out of Senate Agriculture Committee 7/5, and will be heard in Senate Appropriations.

AB 615 (Lowenthal)

Summary: This bill would provide to the Authority certain exceptions, authorizations, and exemptions relative to real property acquisition like those afforded to Caltrans.

Update: This bill was previously "double-joined" to AB 145, and its language changed to apply to a "Department of High-Speed Trains" but in Senate Transportation July 5, the bill was amended in two ways: 1) to require that the Authority explore using Caltrans to perform right-of-way work and 2) to de-couple 615 from 145.

Official Board Position: Support

Status: Awaiting amendment language and vote tally from Senate Transportation.

SB 50 (Correa)

Summary: The language of this bill was nearly identical to that of AB 41 (Hill). It was recently gutted and amended and no longer pertains to high-speed rail.

SB 517 (Lowenthal) (Principal coauthor: Steinberg) (Coauthor: DeSaulnier)

Summary: This bill would place the High-Speed Rail Authority within the Business, Transportation and Housing Agency and would require the members of the authority appointed by the Governor to be appointed with the advice and consent of the Senate. This bill would vacate the membership of the current authority Board and provide for the appointment or reappointment of members as of January 31, 2012; those members would be required to have specified background or experience, as specified.

Official Board Position: Oppose

Status: This bill passed Assembly Transportation 6/27 and Committee on Rules on 7/1, and has been referred to Assembly Appropriations.

Other Bills Being Monitored**AB 16 (Perea)**

Summary: Would require the Authority to make every effort to purchase high-speed train rolling stock and related equipment that are manufactured in California, consistent with federal and state laws.

Status: This bill passed Senate Transportation 6/28 and will be heard in Senate Appropriations 7/11.

AB 145 (Galgiani) (Coauthor: Lowenthal)

Summary: This bill would create the Department of High-Speed Trains within BT&H and transfer certain of the existing powers and responsibilities of the Authority to the department and would specify additional powers and duties of the Authority and department relative to implementation of the high-speed rail project, including the annual submission of a 6-year high-speed train capital improvement program and progress report to the Legislature. The director of the department would be appointed by the Governor, who would serve at the pleasure of the authority, and the Governor would be authorized to appoint up to 10 officers of the department who would be exempt from civil service and serve at the pleasure of the director. This bill was double-joined to AB 615.

Status: This bill was heard in Senate Transportation 7/5.

AB 277 (Galgiani) (Coauthor: Senator Kehoe)

Summary: This bill would require the California Research Bureau, by May 1, 2012, to develop an energy consumption profile that includes a forecast of the power needs of the high-speed rail system and an analysis of any recommendations for identifying a carbon-free baseline power supply for the system. The bureau's work would be done in consultation with the High-Speed Rail Authority, the Federal Railroad Administration, the Public Utilities Commission, the State Energy Resources Conservation and Development Commission, the United States Department of Energy, and the Legislative Analyst's Office.

Status: This bill died as a result of being put on suspense in Assembly Appropriations.

AB 492 (Galgiani) (Coauthor: Ammiano)

Summary: This bill would authorize the authority to consider, to the extent permitted by federal and state law, the creation of jobs in California when awarding major contracts or purchasing high-speed trains, as specified.

Update: The bill now requires the Authority to consider the creation of California jobs, and also requires the Authority to appoint a small business enterprise advisory committee,

which shall provide comments and feedback on the implementation of, and participation in, the authority's small business enterprise policy in order to ensure proper oversight and accountability.

Status: This bill resides in Senate Rules. No hearing scheduled yet.

AB 845 (Ma)

Summary: This bill relates to the \$950 million in Prop 1A bond funds allocated to regional commuter rail connector services. This bill would require the guidelines adopted by the CTC to determine the funding share for each eligible commuter and urban rail recipient to use the distribution factors gathered from the most current available data in the National Transit Database of the Federal Transit Administration. The bill would require the commission to accept from each eligible recipient a priority list of projects up to the target amount expected to be available for the recipient and would require matching funds provided by the recipient to be from nonstate funds.

Update: Passed Assembly Appropriations on May 18 (17 Ayes, 0 Noes)

Status: This bill will be heard in Senate Transportation 7/5.

AB 952 (Jones) (Coauthor: Gordon)

Summary: This bill would prohibit Board members, staff, and consultants from accepting any gifts or from appearing before the Authority on behalf of, or in any way representing before the Authority, any individual or private or public entity for 3 years after termination of the employment or contract relationship with the Authority. The bill is sponsored by the Cities of Palo Alto, Atherton, Menlo Park, and Pico Rivera. On May 10, this bill was amended to require that any gift to the Authority be approved, in written form, by the state Department of Finance.

Status: This bill passed Senate Transportation 6/28, and has not yet been referred to another committee.

AB 1092 (Lowenthal)

Summary: This bill would require the authority to report biannually to the Legislature beginning March 1, 2012, on the status of the project, including overall progress, the project budget, expenditures to date, a comparison of the current and project work schedule and the baseline schedule contained in the 2009 business plan, project milestones, and other related issues.

Status: This bill resides in Senate Rules, no hearing scheduled yet.

AB 1164 (Gordon)

Summary: This bill no longer pertains to high-speed rail, but to Caltrans' ability to make loans from federal transportation funding.

SB 475 (Wright)

Summary: Would authorize a local governmental agency to enter into an agreement with a private entity for financing for specified types of revenue-generating infrastructure projects, including "commuter or light rail." Does not directly affect the Authority but could affect local projects related to the high-speed rail project, such as stations.

Status: This bill failed passage in Assembly Local Government, but reconsideration was granted.

**SB 734 (Price) (Principal coauthor: Assembly Member Galgiani)(Coauthor: Senator Alquist)
(Coauthors: Assembly Members Buchanan, Furutani, Bonnie Lowenthal, and Solorio)**

Summary: This bill would require that the authority, with the assistance of the Department of General Services, prepare a small business, microbusiness, and disabled veteran business outreach and retention plan by July 31, 2012, in order to ensure that the percentage of

contracts awarded meets the small business participation goals established by Executive Order S-02-06.

Status: This bill was double-referred, passed Assembly Transportation 6/27, and will be heard in Assembly Job, Economic Development and Economy 7/6.

Recommendation

Staff recommends that the Board take a formal position of support for the language contained in AB 1422.

Attachments:

- ✓ Assembly Bill 1422
- ✓ Assembly Bill 41